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Office Supreme Court, U. S.
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JAMES H. McKENNEY,

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1909.

No. 2, Original.

COMMONWEALTH OF VIRGINIA, COMPLAINANT,

vs.

STATE OF WEST VIRGINIA.

MOTION OF DEFENDANT FOR LEAVE TO TAKE FURTHER TESTIMONY.

WM. G. CONLEY,
Attorney General of West Virginia.

JNO. G. CARLISLE,
JNO. C. SPOONER,
WESLEY MOLLOHAN,
GEO. W. MCCLINTIC,
W. G. MATHEWS,
CHARLES E. HOGG,
W. M. O. DAWSON,
Of Counsel.

IN THE

PREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1909.

Original, No. 3.

COMMONWEALTH OF VIRGINIA

vs.

STATE OF WEST VIRGINIA.

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the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:

Your petitioner, The State of West Virginia, by William G. nley, Attorney General, in pursuance of the notice duly ven to the plaintiff and filed herein, humbly prays leave to permitted in some proper way under the order of this urt to take and file herein testimony, oral and document- y, for the purpose of proving that the plaintiff, The Com- onwealth of Virginia, has no interest or ownership in the bject-matter of this bill.

Your petitioner further shows and avers that no opportu- ty has been given to the petitioner to take this testimony; at it is testimony pertinent to the issues in this cause as ade in the bill and answer filed herein.

That this testimony was not pertinent to any matter re- rred to the special master, and no testimony could properly

have been admitted by him in relation thereto under the terms of the decree of reference.

Your petitioner further avers that this petition is not filed and motion made for the purpose of delay, but alone for the purpose of properly presenting this cause to the court.

And as in duty bound your petitioner will ever pray.

STATE OF WEST VIRGINIA,
By WILLIAM G. CONLEY,
Attorney General.

JOHN G. CARLISLE,
JOHN C. SPOONER,
WESLEY MOLLOHAN,
GEO. W. MCCLINTIC,
W. G. MATHEWS,
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Now comes the State of West Virginia, defendant herein, by William G. Conley, her attorney general, and respectfully moves this honorable court to postpone the hearing of this cause until the same can be argued before and considered by a full bench, for the following reasons:

FIRST. Because the controversy herein is between two sovereign States.

SECOND. Because most of the basic questions involved herein are of great and far-reaching importance. They involve all the measures and acts resulting in the creation of the State of West Virginia. The matters in controversy have been long pending and have aroused deep interest and created widely differing convictions between the citizens of the two States. They have been the subject of legislation and public discussion to such degree that the hearing and

determination of this cause before and by all the justices of this honorable court is in the highest sense proper and desirable.

THIRD. Because, in the present posture of this suit, all questions in respect of law and merits, are still open and stand for argument and judgment, except the question of the jurisdiction of this honorable court to hear and determine the cause which has been heretofore decided "without prejudice to any question."

206 U. S., pp. 290, 322.
209 U. S., p. 514.

STATE OF WEST VIRGINIA,
By WILLIAM G. CONLEY,
Attorney General.

JOHN C. SPOONER,
CHAS. E. HOGG,
W. MOLLOHAN,
GEO. W. MCCLINTIC,
W. G. MATHEWS,
Counsel.

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NOTICE.

To the Commonwealth of Virginia and Samuel W. Williams, Attorney General:

You are hereby notified that the defendant, the State of West Virginia, will, on Tuesday, the 11th day of October, 1910, or as soon thereafter as the motion can be made, ask the court to postpone the hearing of this cause until the same can be argued before and considered by a full bench. A copy of the motion is annexed hereto.

OCTOBER 3, 1910.

STATE OF WEST VIRGINIA,

By

Attorney General.